

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE

**JOSE GABRIEL MIRABAL RIVERA  
MARISOL ORSINI MONTANYA**

Debtor(s)

CASE NUMBER: **11-6217-MCF**

CHAPTER 13

**TRUSTEE'S OBJECTION TO CLAIM NUMBER 12  
FILED BY BANCO POPULAR DE PR  
NOTICE AND CERTIFICATE OF SERVICE**

TO THE HONORABLE COURT:

**COMES NOW**, Alejandro Oliveras-Rivera, Standing Chapter 13 Trustee, and very respectfully **ALLEGES, STATES and PRAYS**:

1. On November 17, 2011, claim number 12, was filed by BANCO POPULAR DE PR in the amount of \$170,173.49. The Trustee objects to this claim under the following grounds:

**The Mortgage Note attached to the claim does not have endorsement. No evidence of the secured status of creditor's claim has been provided, as it lacks copy of title search and evidence of perfection. Trustee requests the disallowance of this claim.**

2. Debtor is not a member of the U.S. Armed Forces, the Coast Guard, the Public Health Service or the National Oceanic and Atmospheric Administration, as evidence by the Certificate issued by the U.S. Department of Defense, copy of which is attached only to the original of this motion and movant's copy.

**WHEREFORE**, it is respectfully requested from this Honorable Court to:

**DISALLOW THE AFOREMENTIONED CLAIM.**

**30 DAY NOTICE TO ALL CREDITORS AND PARTIES IN INTEREST** : YOU ARE HEREBY NOTIFIED THAT YOU HAVE THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE TO FILE AN OPPOSITION TO THE FOREGOING MOTION AND TO REQUEST A HEARING. IF NO OPPOSITION IS FILED WITHIN THE PRESCRIBED PERIOD OF TIME, THE TRUSTEE'S MOTION WILL BE DEEMED UNOPPOSED AND MAY BE GRANTED WITHOUT FURTHER HEARING UNLESS(1) THE REQUESTED RELIEF IS FORBIDDEN BY LAW; (2) THE REQUESTED RELIEF IS AGAINST PUBLIC POLICY; OR (3) IN THE OPINION OF THE COURT, THE INTEREST OF JUSTICE REQUIRES OTHERWISE. IF A TIMELY OPPOSITION IS FILED, THE COURT WILL SCHEDULE A HEARING AS A CONTESTED MATTER.

**CERTIFICATE OF SERVICE**: I hereby certify that on this date I electronically filed the above document with the Clerk of the Court using the CM/ECF System which sends notification of such filing to all those who in this case have registered for receipt of notice by electronic mail. I further certify that the foregoing has been served to U.S. Trustee at [ustregion21.hr.ecf@usdoj.gov](mailto:ustregion21.hr.ecf@usdoj.gov) and by depositing true and correct copies thereof in the United States Mail, postage prepaid, to debtor(s), debtor(s) attorney, creditor and creditor's legal representation (if appearance has been filed) to their addresses of record.

**RESPECTFULLY SUBMITTED** at San Juan, Puerto Rico, this November 22, 2011.

**/S/ ALEJANDRO OLIVERAS RIVERA**

ALEJANDRO OLIVERAS RIVERA  
Chapter 13 Trustee  
PO Box 9024062  
San Juan, PR 00902-4062  
Phone 787-977-3500 Fax 787-977-3521

Department of Defense Manpower Data Center

Nov-22-2011 05:37:54



Military Status Report  
Pursuant to the Service Members Civil Relief Act

| ◀ Last Name    | First/Middle | Begin Date   | Active Duty Status | Active Duty End Date | Service Agency |
|----------------|--------------|--|--------------------|----------------------|----------------|
| MIRABAL RIVERA | JOSE GABRIEL | Based on the information you have furnished, the DMDC does not possess any information indicating the individual status. |                    |                      |                |

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

*Mary M. Snavelly-Dixon*

Mary M. Snavelly-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL <http://www.defenselink.mil/fag/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the

Service SCRA points-of-contact.

***More information on "Active Duty Status"***

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101 (d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502 (f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

***Coverage Under the SCRA is Broader in Some Cases***

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

Report ID:F28D0OR05U

Department of Defense Manpower Data Center

Nov-22-2011 05:38:24



Military Status Report  
Pursuant to the Service Members Civil Relief Act

| ◀ Last Name        | First/Middle | Begin Date   | Active Duty Status | Active Duty End Date | Service Agency |
|--------------------|--------------|--|--------------------|----------------------|----------------|
| ORSINI<br>MONTANYA | MARISOL      | Based on the information you have furnished, the DMDC does not possess any information indicating the individual status. |                    |                      |                |

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Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
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Report ID:G14PFPFP81

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The undersigned hereby certifies that a true copy of the foregoing document was mailed by first class mail or electronically sent to the parties listed below:

BANCO POPULAR DE PR  
PO BOX 70100  
SAN JUAN, PR 00936 -8100

BANCO POPULAR DE P.R. MORTGAGE DIV.  
C/O CARDONA-JIMENEZ LAW OFFICES  
PO BOX 9023593  
SAN JUAN, PR 00902 -3593

BANCO POPULAR DE PR  
PO BOX 362708  
SAN JUAN, PR 00936 -2708

JOSE GABRIEL MIRABAL RIVERA and MARISOL ORSINI MONTANYA  
140 CONDOMINIO CAMELOT  
CALLE 842 APT 1406  
SAN JUAN, PR 00926

R FIGUEROA CARRASQUILLO LAW OFFICE PSC\*  
PO BOX 193677  
SAN JUAN, PR 00919-3677

DATED: November 21, 2011

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OFFICE OF THE CHAPTER 13 TRUSTEE